

110TH CONGRESS
2D SESSION

H. R. 5522

IN THE SENATE OF THE UNITED STATES

MAY 1, 2008

Received; read twice and referred to the Committee on Health, Education,
Labor, and Pensions

AN ACT

To require the Secretary of Labor to issue interim and final occupational safety and health standards regarding worker exposure to combustible dust, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Worker Protection
3 Against Combustible Dust Explosions and Fires Act of
4 2008”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) An emergency exists concerning worker ex-
8 posure to combustible dust explosions and fires.

9 (2) 13 workers were killed and more than 60
10 seriously injured in a catastrophic combustible dust
11 explosion at Imperial Sugar in Port Wentworth,
12 Georgia on February 7, 2008.

13 (3) Following 3 catastrophic dust explosions
14 that killed 14 workers in 2003, the Chemical Safety
15 and Hazard Investigation Board (CSB) issued a re-
16 port in November 2006, which identified 281 com-
17 bustible dust incidents between 1980 and 2005 that
18 killed 119 workers and injured 718. The CSB con-
19 cluded that “combustible dust explosions are a seri-
20 ous hazard in American industry”.

21 (4) A quarter of the explosions occurred at food
22 industry facilities, including sugar plants. Seventy
23 additional combustible dust explosions have occurred
24 since 2005.

25 (5) Material Safety Data Sheets (MSDSs) often
26 do not adequately address the hazards of combus-

1 tible dusts, and the OSHA Hazard Communication
2 Standard (HCS) inadequately addresses dust explo-
3 sion hazards and fails to ensure that safe work prac-
4 tices and guidance documents are included in
5 MSDSs.

6 (6) The CSB recommended that OSHA issue a
7 standard designed to prevent combustible dust fires
8 and explosions in general industry, based on current
9 National Fire Protection Association (NFPA) dust
10 explosion standards.

11 (7) The CSB also recommended that OSHA re-
12 vise the Hazard Communication Standard (HCS)
13 (1910.1200) to clarify that combustible dusts are
14 covered and that Material Safety Data Sheets con-
15 tain information about the hazards and physical
16 properties of combustible dusts.

17 (8) OSHA has not initiated rulemaking in re-
18 sponse to the CSB's recommendation.

19 (9) OSHA issued a grain handling facilities
20 standard (29 C.F.R. 1910.272), in 1987 that has
21 proven highly effective in reducing the risk of com-
22 bustible grain dust explosions, according to an
23 OSHA evaluation.

24 (10) No Occupational Safety and Health Ad-
25 ministration standard comprehensively addresses

1 combustible dust explosion hazards in general indus-
2 try.

3 (11) Voluntary National Fire Protection Asso-
4 ciation standards exist which, when implemented, ef-
5 fectively reduce the likelihood and impact of combus-
6 tible dust explosions.

7 **SEC. 3. ISSUANCE OF STANDARD ON COMBUSTIBLE DUST.**

8 (a) INTERIM STANDARD.—

9 (1) APPLICATION AND RULEMAKING.—Notwith-
10 standing any other provision of law, not later than
11 90 days after the date of enactment of this Act, the
12 Secretary of Labor shall promulgate an interim final
13 standard regulating combustible dusts. The interim
14 final standard shall, at a minimum, apply to manu-
15 facturing, processing, blending, conveying, repack-
16 aging, and handling of combustible particulate solids
17 and their dusts, including organic dusts (such as
18 sugar, candy, paper, soap, and dried blood), plastics,
19 sulfur, wood, rubber, furniture, textiles, pesticides,
20 pharmaceuticals, fibers, dyes, coal, metals (such as
21 aluminum, chromium, iron, magnesium, and zinc),
22 fossil fuels, and others determined by the Secretary,
23 but shall not apply to processes already covered by
24 OSHA's standard on grain facilities (29 C.F.R.
25 1910.272).

1 (2) REQUIREMENTS.—The interim final stand-
2 ard required under this subsection shall include the
3 following:

4 (A) Requirements for hazard assessment to
5 identify, evaluate, and control combustible dust
6 hazards.

7 (B) Requirements for a written program
8 that includes provisions for hazardous dust in-
9 spection, testing, hot work, ignition control, and
10 housekeeping, including the frequency and
11 method or methods used to minimize accumula-
12 tions of combustible dust on ledges, floors,
13 equipment, and other exposed surfaces.

14 (C) Requirements for engineering controls
15 (which requirements shall be effective 6 months
16 after the date on which the interim standard is
17 issued), administrative controls, and operating
18 procedures, such as means to control fugitive
19 dust emissions and ignition sources, the safe
20 use and maintenance of dust producing and
21 dust collection systems and filters, minimizing
22 horizontal surfaces where dust can accumulate,
23 and sealing of areas inaccessible to house-
24 keeping.

1 (D) Requirements for housekeeping to pre-
2 vent accumulation of combustible dust in places
3 of employment in such depths that it can
4 present explosion, deflagration, or other fire
5 hazards, including safe methods of dust re-
6 moval.

7 (E) Requirements for employee participa-
8 tion in hazard assessment, development of and
9 compliance with the written program, and other
10 elements of hazard management.

11 (F) Requirements to provide written safety
12 and health information and annual training to
13 employees, including housekeeping procedures,
14 hot work procedures, preventive maintenance
15 procedures, common ignition sources, and lock-
16 out, tag-out procedures.

17 (3) PROCEDURE.—The requirements in this
18 subsection shall take effect without regard to the
19 procedural requirements applicable to regulations
20 promulgated under section 6(b) of the Occupational
21 Safety and Health Act of 1970 (29 U.S.C. 655(b))
22 or the procedural requirements of chapter 5 of title
23 5, United States Code.

24 (4) EFFECTIVE DATE OF INTERIM STAND-
25 ARD.—Except as specified in paragraph (2)(C) with

1 regards to engineering controls, the interim final
2 standard shall take effect 30 days after issuance.
3 The interim final standard shall have the legal effect
4 of an occupational safety and health standard, and
5 shall apply until a final standard becomes effective
6 under section 6 of the Occupational Safety and
7 Health Act (29 U.S.C. 655).

8 (b) FINAL STANDARD.—

9 (1) RULEMAKING.—Not later than 18 months
10 after the date of enactment of this Act, the Sec-
11 retary of Labor shall, pursuant to section 6 of the
12 Occupational Safety and Health Act (29 U.S.C.
13 655), promulgate a final standard regulating com-
14 bustible dust explosions.

15 (2) REQUIREMENTS.—The final standard re-
16 quired under this subsection shall include the fol-
17 lowing:

18 (A) The scope described in subsection
19 (a)(1).

20 (B) The worker protection provisions in
21 subsection (a)(2).

22 (C) Requirements for managing change of
23 dust producing materials, technology, equip-
24 ment, staffing, and procedures.

1 (D) Requirements for building design such
2 as explosion venting, ducting, and sprinklers.

3 (E) Requirements for explosion protection,
4 including separation and segregation of the haz-
5 ard.

6 (F) Relevant and appropriate provisions of
7 National Fire Protection Association combus-
8 tible dust standards.

9 (3) PROCEDURE.—The final standard required
10 by this subsection shall be promulgated in accord-
11 ance with the procedural requirements for rule-
12 making under section 6(b) of the Occupational Safe-
13 ty and Health Act of 1970 (29 U.S.C. 655(b)) and
14 under title 5, United States Code, including the re-
15 quirements relating to small businesses in chapter 6
16 of such title.

17 **SEC. 4. REVISION OF THE HAZARD COMMUNICATION**
18 **STANDARD.**

19 (a) REVISION REQUIRED.—Notwithstanding any
20 other provision of law, not later than 6 months after the
21 date of enactment of this Act, the Secretary of Labor shall
22 revise the hazard communication standard in section
23 1910.1200 of title 29, Code of Federal Regulations, by
24 amending the definition of “physical hazard” in subsection

1 (c) of such section to include “a combustible dust” as an
2 additional example of such a hazard.

3 (b) EFFECT OF MODIFICATIONS.—The modification
4 under this section shall be in force until superseded in
5 whole or in part by regulations promulgated by the Sec-
6 retary of Labor under section 6(b) of the Occupational
7 Safety and Health Act of 1970 (29 U.S.C. 655(b)) and
8 shall be enforced in the same manner and to the same
9 extent as any rule or regulation promulgated under section
10 6(b).

11 (c) EFFECTIVE DATE.—The modification to the haz-
12 ard communication standard required shall take effect
13 within 30 days after the publication of the revised rule.

Passed the House of Representatives April 30, 2008.

Attest: LORRAINE C. MILLER,
Clerk.